

are attached to the bottom of the axel and are below the attaching frame (page 6, lines 9-11 and Figure 6).

The ground brace is below the outer end of the doglegs and suspend the doglegs from the ground (page 6, lines 20-21).

5 A strap for securing the doglegs and wing pieces in an essentially vertical position was described at page 7, lines 9-12 and shown at Figure 8. The deer support frame is transported, whether loaded or unloaded, in an essentially vertical position (page 7, lines 6-8) but may be deployed horizontally (page 7, lines 7-8 and Figure 6).

10

REMARKS

The Examiner rejected Claim 1 as being unpatentable over Smith.

15 The Examiner stated that Smith had a hinged deer support frame with doglegs, wing pieces, and a ground brace. The Smith deer carrier rack describes a winch-operated hauling and lifting platform for a deer attached to the rear of an ATV. Smith includes an electric winch 14 and pulleys used to lift the deer from the ground. (Para 0019) Smith includes

20 a pair of "cradle arms 20" (Para 0019) which are pointed upwardly when deployed (Figure 1), as opposed to the "irregularly shaped wing pieces 18" (New Specification, page 6, line 13) which are essentially parallel to the ground in the instant device. Note that the cradle arms 20 of Smith are not "ground braces 20" as stated by the Examiner. The

25 cradle arms of Smith cradle the deer and are more analogous to the wings 18 of the instant device.

The irregularly shaped doglegs 16 and the pivoting loading platform 18 of Smith, loads the onto the rear cargo rack of the ATV. (Para 0020) This would cause the deer carcass to be placed on top of the ATV itself, as distinguished from the instant invention.

5 **The instant invention, as now claimed, carries the bloody deer in front of the ATV in a separate rack, not on the ATV. This is an important distinction, as carrying the bloody deer on the ATV would cause the deer blood to contaminate the ATV. In the instant invention, the deer is located between the deer support frame and the deer carrier**
10 **attaching frame, and to the front of the ATV. The blood from the deer drips on the ground in the instant invention, not onto the ATV.**

The cargo (deer) of the Smith device is loaded at its very outer end, farthest away from the ATV rear rack. This arrangement demands that a winch be used to raise the Smith platform 18 because the moment
15 **arm of the weight is farthest from the ATV rear rack.**

The instant device allows the hunter to load the deer near the front rack of the ATV and utilizes a long lever arm 15 in conjunction with a ground brace 20 which is located some length away from the ATV. Loading and securing the deer to the ATV may be done by hand,
20 **without any winch or crank, due to the structure of the deer carrier as described and now claimed. Because the loading platform is near the front of the ATV, simple manual strength is all that is required to load the deer. Claim 1, as now amended, is distinct from, and not anticipated or rendered obvious by, the winch-driven device described in Smith.**

25 **The McElhany lift system for an ATV is also winch-driven (Para 0027) and utilizes a powered winch or crank 11 to lower and lift the lift plate floor 23. While the dogleg 23 of McElhany is pivotably connected**

to the crank or winch and ATV, it lifts the deer at its outer end, rather than close to the ATV.

Again, the McElhany device lifts the deer onto the rear rack of the ATV (Para 0033), thus causing the problems with the deer blood and other contamination and unsanitary conditions on the ATV itself.

McElhany does not describe or teach a ground brace (20 in the instant invention) as the winch-driven system does not need any further leverage to raise a deer from the outer end of the McElhany system.

McElhany also has an auxiliary support leg 29 (Para 0029) intermediate between the ATV and the outer end of the carrier located under legs 22. The instant device has its ground brace 20 located at the *outer end* of the carrier rack, to facilitate the manual raising of the loaded rack. The intermediate support leg 29 of McElhany and the outer ground brace 20 of the instant device differ substantially as to form, structure, and use.

McElhany and Smith both teach away from a manually operated deer carrier rack as they teach both a winch and a deer carrier that is located away from the ATV, and at the rear of the vehicle. Both McElhany and Smith also teach a carrier that deposits the bloody deer onto the rear of the ATV, a condition avoided by the instant device.

Skotzky is more similar in structure to the instant device than are either Smith or McElhany, since Skotzky is a manually operable device. The Skotzky deer-lifting device for an ATV is a manually operated device but has none of the refinements of the instant invention.

Skotzky has an oblique deer-receiving platform 24 which may be used to simply lift or roll the deer onto the middle platform 28. The

Skotzky device does not have a platform for receiving the deer that is essentially parallel to the ground.

**In addition, Skotzky suffers from the same leverage drawbacks of Smith and McElhany: All three deer carriers place the deer at the outer
5 end of the platform, requiring much more leverage to raise the deer off of the ground and into a carrying position. Smith and McElhany solve this problem with electric or crank winches; Skotzky uses his “platform” as an oblique ramp to roll the deer and raise the deer manually. (Col. 4, lines 53-63)**

10 In addition, Skotzky also ultimately loads the bloody deer onto the rear rack of the ATV, causing all of the aforementioned problems and health hazards.

**Another approach to solving the problem solved by the structure of the instant device is found in the 2002 patent issued to Talbott.
15 Talbott describes a deer-loading device that, as in the above patents, utilizes a winch to pull the deer into a cage for transportation. While the cage is attached to the rear of the vehicle (thus eliminating the bloody deer on the vehicle proper), the Talbott device neither lifts the deer nor enables a hunter to manually load a deer where it is found. In fact,
20 Talbott is designed for a truck, not a versatile ATV. (See Talbott drawing figures.)**

The Caldwell deer caddy uses the force of a moving ATV to press against a lift leg and raise the deer to the level of the back rack. (Col. 2, lines 53-57)

25 Caldwell also loads the bloody deer onto the ATV as do the above-described deer carriers. Caldwell’s deer caddy pivots at the rear of the vehicle but is designed to dump the bloody deer onto the rear

rack. In addition, Caldwell does not provide for the manual lifting of the deer into a carrier rack that is completely in front of the ATV.

None of the above devices utilize a deer carrier that is near and below the front of the ATV. None have a long lever arm for raising the deer to a carrying position. None have the carrier portion of the rack completely outside the ATV, which helps keep the transportation of a bloody deer safer and more sanitary.

In the instant device, no winches are needed due to the configuration and relationship of the hinges and carrier portion of the rack. Smith, McElhany, Skotzky, Caldwell, and Talbott do not, either alone or in combination, anticipate the instant invention, as now claimed.

The Examiner cited a number of patents in rejecting Claim 3, which claimed the deer stand rack with forward and rearward holder rails. In particular, the Examiner cited Shaver as having an attaching frame 30 and holder rails 64 and 66. Claim 3 has now been cancelled in view of the prior art cited by the Examiner.

Most of the remaining prior art cited by the Examiner is relevant only to cancelled Claim 3. However, a brief discussion of the remaining prior art follows.

Rosenberg, Workentine, Wagner, Edwards, Lang, and Fulton describe forward and rearward (in some cases) racks for various goods including bicycles and even hats and coats. It is believed that they relate to Claim 3, which has been cancelled. In any event, none of these racks do any lifting and cannot be relevant to Claim 1, as now amended.

Some of the other patents cited are for use on an ATV and are directed to carrying items. However, most do not aid in lifting a deer or other cargo and are only tangentially relevant.

Hale lifts no cargo and is a carrier only. Yamada describes a cargo carrier attached to an ATV and does no lifting.

The Laney rack apparatus folds into a convenient carrier for bows or other gear but is unsuited for a deer or other large cargo. Laney does no lifting.

Bubik is a roof rack carrier for a car for use with bicycles. Bubik does no lifting.

Boston describes a bow carrier for an ATV and does no lifting. Brantley is a cargo carrier for an ATV but is not directed to the lifting of heavy objects from the ground and carrying them on an ATV.

CONCLUSION

Claim 1, as now amended, claims a new device for *manually* lifting a bloody deer from the ground and carrying it on a separate rack which is separate from the ATV itself. Claim 1 sets out a device that is attached to *the front* of an ATV and which allows a hunter to load and

transport a deer using an ATV and only manual assistance. Claim 1, as now amended, is in condition for allowance. Early reconsideration of the rejection and allowance of Claim 1 is hereby solicited.

5

10



Don W. Weber

Attorney for Applicant #32,321

15

I hereby certify that a copy of the foregoing Response and Amendment was
20 *mailed to the Commissioner of Patents this 7th day of September, 2005.*



Don W. Weber